



REPUBLIC OF KENYA



**In re Adoption of LEN (The Child) (Adoption Cause E117 of 2024)
[2025] KEHC 6657 (KLR) (Family) (23 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 6657 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

ADOPTION CAUSE E117 OF 2024

PM NYAUNDI, J

MAY 23, 2025

IN THE MATTER OF THE CHILDREN ACT, 2022

AND

IN THE MATTER OF:

LEN.....THE CHILD

IN THE MATTER OF

CWC 1ST APPLICANT

JMK 2ND APPLICANT

JUDGMENT

1. Vide Originating Summons, dated 22nd May, 2024 the Applicants herein seek the following orders, that:-
 - i. Spent.
 - ii. The Director Children's Department, Ministry of Labour, Social Security and Services investigate the Applicants' fitness to adopt and file a report.
 - iii. The Applicants be authorized to adopt LEN to be known as LENM.
 - iv. The child be presumed to be a Kenyan Citizen by birth.
 - v. The Registrar General be directed to enter the adoption in the Adopted Children Register.
 - vi. The Director of Immigration be authorized to issue the child with a Passport.
 - vii. The Court be pleased to make any further orders it deems necessary.



2. This is a joint Application. Applicants are both Kenyan Citizens. 1st Applicant resides in Seattle Washington. She is an IT Professional. The 2nd Applicant resides in Kileleshwa. He is also an IT Professional. The Applicants started living together as husband and wife in 2019 and in 2020, they solemnized their union through a Civil Marriage which was celebrated in the US as per the annexed copy of marriage certificate.
3. The child herein is the biological child of the 1st Applicant. The whereabouts of the child's biological father Mr. RWA are not known, he disappeared soon after the birth of the minor. Attempts to trace Mr. W, were fruitless thus purporting the 1st Applicant to obtain a decree from the Children's Court at Nairobi Vide Children's Case No E1113 of 2021 granting her sole legal and actual custody, care and control of the child in the 1st Applicant on 18th March, 2022. They have had parental responsibility over the child since the 2nd Applicant met the child when she was 3 years old.
4. They have had custody of the minor since birth. The minor is about 9 years old. They both understand the implications of the adoption order, they are aware that the child will have full rights as would a biological child and the order is not reversible.
5. The minor herein (Baby LEN) is presumed to have been born on 15th April, 2015 at Nairobi Hospital. She was born to 1st Applicant and RWA. In 2022, the 1st Applicant moved to Nairobi Children Court and was granted sole legal custody after the child's as the child's father has never been in touch with the 1st Applicant and his whereabouts remains unknown to the 1st Applicant. It's the 1st Applicant averment that she has been living in the US with the child and attends school at [particulars withheld] Elementary where she is in Grade 4. It's the 1st Applicant disposition that she approached the Kenya Children's Homes Adoption Society where she made clear intention of offering the child for adoption. She was counseled at length and taken through an explanatory memorandum where she signed the Certificate of Acknowledgement
6. Thereafter, Kenya Children's Homes Adoption Society confirmed that they had assessed the Applicants and found them suitable adoptive parents and further that the adoption would be in the child's best interest therefore declared the child free for adoption vide certificate serial Number 9X8.
7. All the Statutory Reports that have been filed in respect of the proposed adoption of the child by the Applicants have recommended that this Court allows the Applicants to adopt the child. This being a Kinship adoption where the child is being adopted by the father of her biological (her step- father), it will be the best interest of the child.
8. The Assistant Director Children Services, Ezekiel Kimani submitted a favourable report dated 4th October 2024, through her visit she averred that the Applicants have met the legal requirements for Kinship adoption as stipulated by the *Children Act*. They are financially stable to take good care of the child. They are mentally sound. The Applicants are clear of any criminal claim as evidenced by police clearance certificate number PCC-67TXXEJ5 as well as Bartow County Sheriff's investigating Office purporting that no criminal record was found for the 1st Applicant thus the Officer recommended the adoption process.
9. JNW, Guardian *Ad Litem*, presented report dated 11th October, 2024 in which during her visit, she found that the child bonded well with the 2nd Applicants as well as extended family members. The child is very happy as the Applicants have jointly created a conducive, loving and caring environment for the child. Therefore, recommending the Applicants to adopt the child since it would be in the child's best interests.



10. Proposed Legal Guardian (JS) testified in Court that she lives in Georgia, USA where is a registered Nurse. She asserted that the 1st Applicant is her daughter and 2nd Applicant is her son-in-law. She consented to be the legal guardian for the minor. She understands the legal implications and she will assume full parental responsibility in the event the Applicants are unable to discharge their responsibilities.

Determination

11. After carefully assessing the records herein, I am satisfied that the Applicants have fulfilled all the legal requirements relating to the Child's adoption. Section 186 of the [Children Act](#), 2022 provides. The Court may make an adoption order on application by-
- (1)
 - (a) Sole applicant; or
 - (b) Two spouses jointly.
 - (2) The court shall not make an adoption order in any case unless-
 - i. the applicant has attained the age of twenty-five years, but is not above the age of sixty-five years; and
 - ii. The applicant, or both of the applicants in a joint application, is more than twenty-one years older than the child.
 - (3) The restrictions in subsection (2) shall not apply in any case where a sole applicant or one of the joint applicants is the mother, father, or relative of the child.
12. This Court is alive to the jurisdiction of the High Court vide Article 165 Constitution of Kenya 2010 and Section 183(1) [Children Act](#) 2022. The Court is conscious of the law; Article 53 [Constitution](#) of Kenya 2010, Section 8 of [Children Act](#) 2022 and the UN Convention on the Rights of the Child & African Charter on the Rights & Welfare of the Child all amplify on the best interests of the child.
13. The Court has evaluated the facts of this Kinship Adoption from the Reports filed. It is evident that the Applicants have fulfilled all the legal requirements of a Kinship Adoption as required under Section 193 of the [Children's Act](#), 2022. The guiding principle remains in the best interests of the child pursuant to Section 8 and 194 (1) (c) of the [Children's Act](#) Cap 141 of the Laws of Kenya. This Court has satisfied itself that the Applicants are qualified and able to take care of the child. All the necessary Reports and consents required for this Adoption have been filed.
14. Article 14 (4) of the [Constitution](#) of Kenya 2010 provides that: -
- “(4) A child found in Kenya who is, or appears to be less than eight years of age and whose nationality and parents are not known, is presumed to be a citizen by Birth.”
15. This Court is therefore of the opinion that this Adoption would be in the best interest of the child and allows the application with Orders that;
- a. The Applicants, CWC and JMK are hereby allowed to adopt Baby LEN.
 - b. Henceforth, the child shall be known as LM.
 - c. Her date of birth shall be 15th April, 2015 at Nairobi Hospital.



- d. She is presumed to be a Citizen of Kenya by birth.
- e. JS is hereby appointed as Legal Guardian of the child.
- f. The Director Immigration is authorised to issue the child with a Kenyan Passport.
- g. The Registrar General to enter this order in the Adoption Children Register and issue a certificate as required.
- h. The guardian *Ad Litem* is hereby discharged.

It is so ordered.

DATED AND DELIVERED IN VIRTUAL COURT THIS 23RD DAY OF MAY, 2025.

M NYAUNDI

JUDGE

In the presence of:

Mundia for Applicant

Fardosa Court Assistant

